

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 6,199,388 )

Inventor: Fischer, Jr. )

Serial No.: 09/271,046 )

Filed: March 10, 1999 )

Issued: March 13, 2001 )

For: **SYSTEM AND METHOD FOR  
CONTROLLING TEMPERATURE  
AND HUMIDITY** )

**REQUEST FOR CERTIFICATE OF CORRECTION UNDER 35 U.S.C. § 255**

ATTN: Certificate of Correction Branch  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 35 U.S.C. § 255, applicant requests a Certificate of Correction as set forth on the attached PTO/SB/44 form. The Commissioner is authorized to charge the filing fee of \$100.00 and any additional fees to Deposit Account No. 02-4467.

**Certificate of Mailing or Transmission**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Typed or printed name	Elizabeth Morris		
Signature	<i>Elizabeth Morris</i>	Date	9-3-04

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## Remarks

Applicant files this request to correct a typographical error appearing in Claim 36. It is clearly evident from a review of the structure of the claim and specification, that the term "total energy recovery wheel" in col. 25, line 4, is in error and should be replaced with the term "sensible energy recovery device."

As set forth in MPEP § 1481, a Certificate of Correction should be issued under 35 U.S.C. § 255 if the following criteria are met:

"The mistake must be:

- (1) of a clerical nature;
- (2) of a typographical nature; or
- (3) a mistake of minor character." and

"The correction must not involve changes which would:

- (1) constitute new matter or
- (2) require reexamination."

MPEP § 1481; *In re Arnot*, 19 USPQ2d 1049, 1052 (Comm'r Pat. 1991).

Here the mistake satisfies the first statutory requirement because it is of a typographical nature and is of a minor character. As shown in the chart below, claim 36 is directed to an embodiment of the invention comprising a sensible energy recovery device (element (d)), a dehumidification wheel (element (e)), and a cooler (element (f)). Element (f) of the claim is clearly intended to specify the position of the cooler as being between the two previously recited elements. Thus, element (f) should state that the cooler is positioned between the *sensible energy recovery device* and the dehumidification wheel. However, due to a typographical error, it incorrectly states that the cooler is positioned "between the *total energy recovery wheel* and the dehumidification wheel." This is an obvious error since the claim does not recite a "total energy recovery wheel." As

set forth in the attached declaration from the undersigned attorney, this mistake is a typographical error that occurred in drafting the claim.

<b>Claim 36</b> <b>(with requested correction indicated)</b>	
A system for controlling the temperature and humidity of a controlled space, the system comprising:	
a)	an air supplier adapted to supply air to the controlled space, creating a supply air stream;
b)	an air exhauster adapted to exhaust air out of the controlled space, creating an exhaust air stream adjacent to the supply air stream;
c)	a partition disposed between the supply and exhaust air streams that separates the supply and exhaust air streams;
d)	a <b>sensible energy recovery device</b> in contact with the supply air stream and exhaust air stream that exchanges heat between the supply and exhaust air streams;
e)	a <b>dehumidification wheel</b> positioned to rotate through the supply air stream and the exhaust air stream that exchanges heat and moisture between the supply and exhaust air streams; and
f)	a cooler disposed in the supply air stream <b>between the <del>total energy recovery wheel</del> <u>sensible energy recovery device</u> and the dehumidification wheel</b> , the cooler adapted to cool and dehumidify the supply air stream.

It is readily apparent from the structure of the claim that the term “total energy recovery wheel” should be corrected to read “sensible energy recovery device.” The structure of the claim is consistent with the other independent apparatus claims, which recite three elements, and specify that the third element (the cooler) is positioned in the supply air stream between the other two elements. The claim does not recite “a total energy recovery wheel.” As such, the reference in element (f) to “*the* total energy recovery wheel” is an obvious mistake because there is no such element. It is readily apparent from reviewing the structure of the claim and the specification that element (f) should read that the cooler is positioned between “the *sensible energy recovery device*” (recited in element (d)) and “the dehumidification wheel” (recited in element (e)).

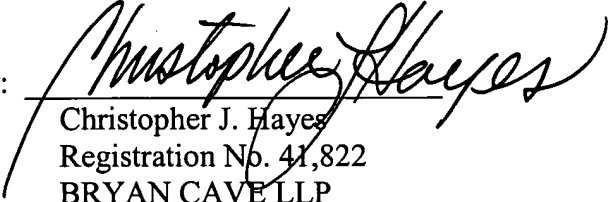
The specification plainly describes two embodiments of the invention. One embodiment comprises a total energy recovery device, a dehumidification wheel and a cooler disposed in between. A second embodiment is described at Col. 9, line 42: "In another embodiment, the total energy recovery device 12 may be replaced with a sensible energy recovery device . . . ." Claims 1, 35, and 36 are independent apparatus claims of the invention. Claims 1 and 35 are directed to the embodiment of the system having a type of total energy recovery device. Claim 36 is clearly directed to the second embodiment as element (d) recites a "sensible energy recovery device." All of the independent claims have a similar structure. In each independent claim, element (d) recites either a total energy recovery device or sensible energy recover device, element (e) recites a dehumidification wheel, and element (f) recites a cooler and is intended to specify the position of the cooler between the two previously recited elements. The only embodiment of the invention described in the specification having a sensible energy recovery device has a cooler positioned between the sensible energy recovery device and the dehumidification wheel. Thus, the specification and structure of the claims plainly shows that element (f) is in error and should be corrected as requested.

The second element of the statutory standard for issuing a Certificate of Correction is also satisfied because the correction does not introduce new matter and does not require reexamination. As set forth above, Col. 9, line 42, describes the embodiment of the invention covered by claim 36 in which the cooler is disposed between a sensible energy recovery device and a dehumidification wheel. Furthermore, element (d) of claim 36 already recites a "sensible energy recovery device." Thus, the requested correction would not add any new element to the claim and does not broaden the scope of the claim. The only thing that will be corrected is an obvious typographical error, which is readily apparent from the structure of the claim and the specification.

Applicant respectfully submits that the statutory standard for correcting the patent under 35 U.S.C. § 255 has been satisfied and applicant requests that a Certificate of Correction be issued be issued as set forth on the attached form PTO/SB/44. The Commissioner is authorized to charge Deposit Account No. 02-4467 for the requisite fee and any additional fees.

Respectfully submitted,

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